

9/16/99

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C., 20231, on:

Date: 4/12/99

By: [Signature]



Attorney Docket No.: 5325-0122.20

Applicant: Martin C. Woodle, et al.

Serial No.: 09/139,058

Filing Date: August 24, 1998

For: **METHOD OF TREATMENT OF INFECTED
TISSUES**

RECEIVED

Assistant Commissioner for Patents
Washington, D.C. 20231

APR 19 1999

**MATRIX CUSTOMER
SERVICE CENTER**

Sir:

1. Transmitted herewith are the following:

- ☒ A Response/Amendment Under 37 CFR 1.111
- ☒ A Petition for 1-Month Extension of Time
- ☒ A copy of Office Action (Restriction Requirement) for 07/858,171
- ☐ Sequence Listing printout, floppy diskette, matching declaration
- ☐ Information Disclosure Statement, Form 1449, References
- ☐ Check in the amount of \$110.00.

2. Entity Status

- ☐ Small Entity Status (37 CFR 1.9 and 1.27) has been established by a previously submitted Small Entity Statement.

3. Conditional Petition for Extension of Time:

An Extension of Time is requested to provide for timely filing if necessary for timely filing of this transmittal and enclosures.

4. Provisional Fee Authorization

Please charge any underpayment in fees for timely filing of this transmittal and enclosures to Deposit Account No. 04-0531.

Respectfully submitted,

Judy Mohr

Date: 4/12/99

Judy M. Mohr

Registration No. 38,563

Correspondence Address:

Dehlinger & Associates
P.O. Box 60850
Palo Alto, CA 94306
Phone: (650) 324-0880

COPY


**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

 Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER: 07/858,171 FILING DATE: 03/27/92 FIRST NAMED INVENTOR: WOODLE M ATTORNEY DOCKET NO.: 5325-0122

RECEIVED

LEVY, N

OCT 26 1992

PETER J. DEHLINGER

ART UNIT

1502

PAPER NUMBER

10/23/92

DATE MAILED

 PETER J. DEHLINGER
P.O. BOX 60850
PALO ALTO, CA 94306

 is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS
DOCKETED FOR NOVEMBER 22
☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

 A shortened statutory period for response to this action is set to expire 30 month(s) days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133
Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-16 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☐ Claims _____ are rejected.
5. ☐ Claims _____ are objected to.
6. ☒ Claims 1-16 are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed on _____, has been ☐ approved. ☐ disapproved (see explanation).
12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other _____

EXAMINER'S ACTION



Serial No. 858,171

Art Unit 1502

-2-

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-7, drawn to a process of treating an infection, classified in Class 424, subclass 450.

II. Claims 9-16, drawn to a method of making a composition comprising an antimicrobial agent, classified in Class 264, subclass 4.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions Group II and Group I are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). In the instant case the product can be used in a materially different process such as the formulation of an emulsion suitable as a liquid drink.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be

Serial No. 858,171

-3-

Art Unit 1502

examined even though the requirement be traversed.

Any inquiry concerning this communication should be directed to T.K. Page at telephone number (703) 308-2351.

Page:css

October 15, 1992

THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
ART UNIT 152